

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

APR 15 2011

By *PMW* JAMES N. HATTEN, Clerk
Deputy Clerk

UNITED STATES OF AMERICA :
v. : CRIMINAL ACTION
JERRY ARRIAGA : NO. 1:11-CR-197-JEC-RGV

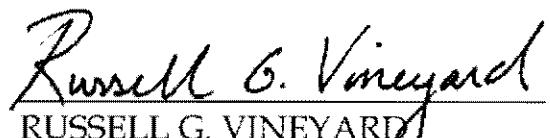
REPORT AND RECOMMENDATION CONCERNING PLEA OF GUILTY¹

The defendant, Jerry Arriaga ("defendant"), by consent, has appeared before the undersigned United States Magistrate Judge and has entered a plea of guilty to Counts One, Two, and Three of the information. After cautioning and examining the defendant under oath concerning each of the subjects mentioned in Rule 11, I have determined that the guilty plea was knowing and voluntary, and that the plea to the offenses charged is supported by an independent basis in fact establishing each of the essential elements of the offenses. I have also determined that, to the maximum extent permitted by federal law, the defendant has voluntarily and expressly waived his right to appeal the conviction and sentence and the right to collaterally attack his sentence in any post-conviction proceedings, including by motion filed pursuant to 28 U.S.C. § 2255, on any ground, except that the defendant

¹ Failure to file written objections to this Report and Recommendation within FOURTEEN (14) DAYS after service of a copy of this Report and Recommendation shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

may file a direct appeal of (1) an upward departure or a variance from the sentencing guideline range as calculated by the district court, and (2) the sentencing court's finding as to the application of Section 2A1.1 of the Sentencing Guidelines, and/or the sentencing court's finding as to the use of a minor to commit a crime under Section 2X6.1 or elsewhere in the Sentencing Guidelines, and if the Government appeals the sentence imposed, the defendant may also file a cross-appeal of that same sentence. It is, therefore, **RECOMMENDED** that the plea of guilty be accepted and that the defendant be adjudged guilty and have sentence imposed accordingly.

IT IS SO RECOMMENDED this 15th day of April, 2011.


Russell G. Vineyard
RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE